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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,313	03/12/2004	Ronald Huner	11885-00033-US	8215
23416	7590	09/22/2004	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			DIXON, MERRICK L	
			ART UNIT	PAPER NUMBER

1774

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,313

Applicant(s)

HUNER ET AL.

Examiner

Merrick Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8-2-04;3-12-04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 7, of claim 1, improper Markush groups are listed. Applicants are requested to provide related corrections.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox et al(6418973) alone.

The cited reference teaches the basic claimed invention including a fiber-reinforced ceramic material with fibers present in the form of woven fabric, short and long fibers- col 6, lines 24-42; col 8, lines 57-67; col 2, lines 57- col 3, line 49; col 4, lines 12-67. col 9, lines 15-60. in regards to the mass ratio of the fibers, it is submitted that it would have been within the art to vary the respective sizes of the reinforcing material, including the different fibers. Such a modification includes a mere change in size of a component which is generally recognized as being within the level of ordinary skill in the art- In re

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Rose, 105 USPQ 237(CCPA 1955). Concerning claims 3-5, the cited reference teaches the claimed limitations in col 5, lines 55-62; see entire reference. Concerning claim 2, the cited reference teaches the claimed limitation in col 5, lines 55-60. Concerning claim 7, the cited reference teaches the claimed limitations in col 13, lines 1-17. concerning claim 8, the cited reference teaches the claimed matrix in col 13, lines 15-17. concerning claim 9, the cited reference teaches the claimed limitation in col 11, lines 49-67.

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Claims 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recited improper Markush groups.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaya et al(5459114) is cited of interest to show the state of the art.

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The

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faxing of all papers must conform with the notice published in the Official Gazette, 1096

O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

personal fax number should be in draft-forms and will be treated as informal.

Same facsimiles will not be entered in the related applications unless

otherwise agreed and noted by the examiner.

The fax number for all other fascimile is 703-872-9306.

Information about **the status of an application** may be obtained from the Patent

Information Retrieval system (**Private PAIR**).

Status inquires for **published applications** may be retrieved from either **Private PAIR**

or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic

Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner

Dixon, at 571-272-1520, Mondays to Thursdays, between 12 noon and 8 PM, eastern

time . The examiner's supervisor, Mrs. Rena Dye, can be reached at 571-272-3186.



Merrick Dixon

Primary Examiner

Group 1700